

REMARKS

Claims 1-7, 10-13, and 15-19 are in this application and are presented for consideration. Claims 1, 10 and 19 have been amended.

The claims have been amended to place the application in better form. In particular claim 1 has been amended to include the features of claim 9, claim 10 has been amended to include the features of claim 14, and claim 19 has been amended to include the features of claims 20 and 21. Since these features of the amended claims have been previously presented, it is applicant's position that the amendments to these claims are not new issues.

Claim 9 has been rejected as being obvious over Doniguian. Amended claim 1 now sets forth a heater for the fresh air flow being controlled as a function of a temperature sensing means measuring the temperature in the interior space of the incubator. Applicant has reviewed Doniguian and finds no teaching nor suggestion of a temperature sensing means measuring temperature in the interior space of the incubator. Applicant notes that Doniguian does describe a heater, however there is no indication of a sensor for measuring temperature. The rejection does not indicate where the temperature sensing means of original claim 9 can be found in the prior art. Since Doniguian does not describe a temperature sensing means, Doniguian fails to anticipate all of the features of amended claim 1. Since an obviousness rejection requires that all of the elements of a claim be anticipated somewhere in the prior art, the applied prior art cannot cause claim 1 to be obvious.

Doniguian is also silent as to how the heater of Doniguian is controlled. Doniguian clearly does not describe a heater which is controlled as a function of a temperature sensing

means measuring temperature in an incubator, since Doniguian does not describe a temperature sensor. Therefore the heater of Doniguian does not have all the features of the heater of amended claim 1, in particular structure for controlling a heater based on temperature in an incubator. Since Doniguian does not have the control structure of the heater of amended claim 1, claim 1 therefore further cannot be obvious in view of Doniguian.

Claim 19 has also been rejected as being obvious over Doniguian. The rejection states that the method steps of claim 19 would naturally flow from the device disclosed in Doniguian. Amended claim 19 now sets forth the step of measuring the temperature in the incubator. As described above, applicant finds no structure in Doniguian which would measure temperature in an incubator. Since there is no structure to measure temperature, the method step of measuring temperature cannot flow from any structure in Doniguian. The step of measuring temperature in amended claim 19 therefore cannot be anticipated by Doniguian. No other reference is used in the rejection to anticipate the step of measuring the temperature. The applied prior art fails to disclose all of the features of amended claim 19, and therefore the applied prior art cannot cause claim 19 to be obvious.

Claim 19 also sets forth the step of heating the gas flow to the incubator based on the measured temperature. While Doniguian does describe a heater, Doniguian does not appear to describe how the heater is controlled. Doniguian clearly does not describe controlling the heater based on a temperature of the incubator, since Doniguian does not have any structure to measure the temperature of the incubator. While the step of heating may naturally flow from the heater of Doniguian, the controlling steps in claim 19 do not flow from any controlling


structure in Doniguian. Claim 19 therefore further defines over Doniguian.

Claim 14 has also been rejected as being obvious over Doniguian. Amended independent claim 10 now sets forth the fan of original claim 14. Applicant finds no teaching nor suggestion in Doniguian of a fan, especially a fan for delivering fresh gas flow into an incubator, as set forth in present claim 10. The rejection does not indicate where the fan of original claim 14 can be found in Doniguian. Applicant's review of Doniguian finds that Doniguian leads a person of ordinary skill away from the use of a fan, and instead relies on the different densities or weights of the different gases to move ambient air from the openings 15 at the top of the enclosure into the hood 10, see column 4 lines 15 through 43. Since Doniguian does not describe a fan, Doniguian cannot cause amended claim 10 to be obvious. It is applicant's position that modifying Doniguian to use a fan, would change the principle of operation of Doniguian. Applicant notes that a modification which would change a principle of operation reference, is not an obvious modification, see MPEP 2143.01. Claim 10 therefore further cannot be obvious in view of Doniguian.

If the Examiner has any comments or suggestions which would further favorable prosecution of this application, the Examiner is invited to contact Applicant's representative by telephone to discuss possible changes.

At this time Applicant respectfully requests reconsideration of this application, and based on the above amendments and remarks, respectfully solicits allowance of this application.

Respectfully submitted  
For Applicant,

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